BEFORE THE IOWA BOARD OF COSMETOLOGY ARTS & SCIENCES

IN THE MATTER OF:)
) CASE NO. 12-012
Amy Thanh Vu Phuong Hoang)
License No. 00740) NOTICE OF HEARING AND
Thanh Quang Nguyen) STATEMENT OF CHARGES
a.k.a Steven Nguyen)
Paris Nails)
License No. 010343)
)
RESPONDENTS.)

The Iowa Board of Cosmetology Arts and Sciences files this Notice of Hearing pursuant to Iowa Code §§ 17A.12(2), 17A.18(3) (2013), and 645 Iowa Administrative Code (IAC) § 11.6. Respondent Amy Thanh Vu Phuong Hoang, was issued cosmetology license no. 00740 on October 14, 1998, and esthetics license no. 00740 on September 27, 1998. Respondent Hoang's individual licenses are current and will next expire on March 31, 2014. Respondent Thanh Quang Nguyen, a.k.a. Steven Nguyen, was issued nail technology license no. 00756 on December 2, 1998. Respondent Nguyen's individual license is current and will next expire on March 31, 2014. Respondent Hoang was issued Iowa salon license no. 010343 on June 14, 2006, to operate Paris Nails located at 1451 Coral Ridge Avenue, #200, Coralville, Iowa, 52241.

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on **April** 7, **2014**, before the Board of Cosmetology Arts and Sciences. The hearing shall begin at **2:00 p.m.** and shall be located in the Lucas State Office Building, Fifth Floor Conference

Room 517/518, Des Moines, Iowa.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 IAC § 11.12 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Board of Cosmetology Arts and Sciences, 5th Floor, Lucas State Office Building, Des Moines, Iowa, 50319.

<u>Presiding Officer</u>. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 641 IAC chapter 11. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 645 IAC § 11.18. The hearing may be open to the public or closed to the public at your discretion.

<u>Pre-hearing Conference</u>. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 645 IAC § 11.17.

<u>Prosecution</u>. The Office of the Attorney General is responsible for representing the public interest (the State of Iowa) in this proceeding. Copies of pleadings should be

provided to counsel for the State at the following address: David Van Compernolle, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319, or at David.VanCompernolle@iowa.gov.

<u>Communications</u>. You may not contact board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

B. LEGAL AUTHORITY AND JURISDICTION

<u>Jurisdiction</u>. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 157, and 272C (2013).

<u>Legal Authority</u>. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A, 147, 157, and 272C (2013) and 645 IAC chapter 65.

<u>Default</u>. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code § 17A.12(3) (2013) and 645 IAC § 11.21.

C. CHARGES

COUNT I – UNSANITARY PRACTICES

Respondent is charged under Iowa Code §§ 147.55 and 157.9, and 645 IAC § 65.2(13), with engaging in unsanitary practices, in violation of Iowa Code § 157.6 (2013) and 645 IAC §§ 63.6, 63.11, 63.13, 63.14, 63.16, 63.18 and 63.25.

COUNT II – PRACTICE BEYOND SCOPE OF LICENSE

Respondent is charged under Iowa Code §§ 147.55 and 157.13(1) (2013), and 645 IAC § 65.2(13), with permitting licensed individuals to practice outside the scope of their license in violation of 645 IAC § 60.3(6) (facial waxing shall only be done by a cosmetologist or esthetician).

COUNT III – FAILURE TO PROPERLY DISPLAY LICENSES

Respondent is charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC 65.2(13), with failing to properly display license renewal cards in the front entrance area of salon at eye level, in violation of 645 IAC § 63.3(3).

COUNT IV – FAILURE TO OBSERVE BUILDING STANDARDS

Respondent is charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC 65.2(13), with failing to have and maintain a first aid kit, in violation of 645 IAC § 63.6(9).

COUNT V – UNIVERSAL PRECAUTIONS

Respondent is charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC 65.2(13), with failing to have a biohazard waste bag and container, in violation of 645 IAC §§ 63.11(2) & (3).

COUNT VI – FAILURE TO DISINFECT INSTRUMENTS

Respondent is charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC 65.2(13), failing to properly disinfect and store instruments, in violation of 645 IAC §§ 63.13(1) & (2).

COUNT VII – FAILURE TO DISPOSE OF SINGLE-USE INSTRUMENTS

Respondent is charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC 65.2(13), failing to dispose of instruments that cannot be disinfected, in violation of 645 IAC § 63.14.

COUNT VIII - FAILURE TO PROPERLY DISPENSE NAIL PRODUCTS

Respondent is charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC 65.2(13), failing to properly dispense a nail product, in violation of 645 IAC § 63.16(2).

COUNT IX - MMA ON PREMISES

Respondent is charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with having a product containing liquid methyl methacrylate (MMA) on its premises in violation of 645 IAC § 63.18(1).

COUNT X - FAILURE TO CLEAN & DISINFECT PEDICURE SPAS

Respondent is charged under Iowa Code § 147.55 (2013), and 645 IAC §§ 63.4(3), 63.25(3) and 65.2(13), with failing to clean and fully document cleanings

of pedicure spas in violation of 645 IAC § 63.25(1-3).

COUNT XI – SUBVERTING AN INVESTIGATION

Respondent is charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with engaging in conduct intended to subvert a Board investigation, in violation of 645 IAC §65.2(18).

COUNT XII – FAILURE TO COMPLY

Respondent is charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with failing to comply with the terms of a settlement agreement, in violation of 645 IAC §65.2(21).

COUNT XIII - EMPLOYMENT OF UNLICENSED INDIVIDUALS

Respondent is charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with knowingly assisting and employing an unlicensed individual to provide services, in violation of 645 IAC §§ 65.2(23), (28) & (36).

COUNT XIV - PROFESSIONAL INCOMPETENCY

Respondent is charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with failing to conform to the minimal standard of acceptable and prevailing practice in this state, in violation of 645 IAC §65.2(2)(d).

D. FACTUAL CIRCUMSTANCES

On April 19, 2013, investigators inspected Respondent's salon and observed heated wax and small strips. Used strips were found in the garbage container. The only employees working were licensed nail techs.

License for employee Linda Trinh Tran was not posted. Professional licenses were posted on the back wall to the ceiling. Salon manager Than Quang Nguyen could not produce a first aid kit, a biohazard waste bag or container. Two disinfectant containers contained debris and instruments were not fully immersed.

Investigators found used non-sanitizable nail files, buffers, sanding bands and dirty foam slippers; instruments were intermixed with money, pens, paperclips and gum.

Several bottles of instant polish remover were located at the manicure stations with the foam inserts stained with color. Two test samples of nail liquid taken revealed the presence of methyl methacrylate monomer (MMA), a substance banned by the Food and Drug Administration.

Salon manager Than Quang Nguyen told investigators the spa log was at home. The screens of four spas contained black, stringy debris.

When investigators entered the salon, one female employee left the premises; employee Linda Trinh Tran took a small jar from her station and emptied the contents into a garbage can.

The overall condition of the salon was dirty and unkempt; evidence of

nails, nail clipping, debris and dust were found on the floor.

At the time of the investigation, Respondent Hoang's licenses were placed on a three (3)-year probation under a Stipulation and Consent Order (Order) issued on April 28, 2010, for violations associated with Secret Nails in Cedar Rapids.

The respondent and salon manager have shown a repetitive pattern of total disregard to the minimal standard of acceptable and prevailing practice for their discipline.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 IAC Chapter 12. If you are interested in pursuing settlement of this matter, please contact David VanCompernolle, Assistant Attorney General, at 515-281-7262, or at David.VanCompernolle@iowa.gov.

F. PROBABLE CAUSE FINDING

On September 9, 2013, the Iowa Board of Cosmetology Arts & Sciences found probable cause to file this Notice of Hearing and Statement of Charges.

Kentury Page

, Chairperson

IOWA BOARD OF COSMETOLOGY

ARTS & SCIENCES

Copies to:

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